MASTER AND SERVANT—INJURY TO SERVANT—DEFECTIVE APPLIANCES—EVIDENCE.—LANDERS v. QUINCEY, O. & K. C. R. Co., 137 SOUTHWESTERN, 605 (KAN.).—*Held,* that where in an action for injuries to a section hand from a hand car, the evidence showing that the car had been in practically the same condition for a long time before and after the accident, evidence that the car was in a bad condition after the injury was admissible.

There is a conflict of opinion among the courts as to the proposition under consideration, some holding that if the condition of an appliance is substantially the same before and after an accident, evidence of that condition is admissible as bearing on its condition at the time of the injury, *Keim v. R. R. Co.,* 90 Mo., 314; *Wharton's Crim. Ev.,* § 767; *Gandy v. C. & Northwestern R. Co.,* 30 Iowa, 422; and the English courts are in accord, *Aldrige v. Great Western R. R.,* 3 M. & G., 515; *Piggott v. Eastern R. R. Co.,* 10 Jurist, 571, and so when a house was burned by sparks from an engine, evidence that they had fallen often before was held admissible, *Sheldon v. Hudson River R. R. Co.,* 14 N. Y. 218. Other American states, however, hold that in actions for injuries evidence of the condition of a railroad line before and after the accident was properly exluded, *Reed v. R. R. Co.,* 45 N. Y., 574, and proof that fires were set in woods by sparks from engines before and after a given fire was not admitted as showing negligence at that particular time, *R. R. Co. v. Yeiser,* 8 Pa. St., 366, and even when no given time was alleged was such evidence admitted, *Balt. & Susque. R. R. Co. v. Woodruff,* 4 Md., 254, and one state admits such proof, but confines the evidence to the immediate locality of the accident, *Ry. v. Huntley,* 38 Mich., 537.

JURISDICTION—ASSUMPTION BY COURT OF EQUITY—EXTENT.—SPENCE v. MINER, SHERIFF ET AL., 131 N. W., 1044 (NEB.).—*Held,* that where a county court appointed a guardian for the estate of an insane person, it is his duty to take entire charge of the estate, as an officer of court, and in so doing he vests the court with exclusive original jurisdiction.

The case under consideration is in accord with the doctrine that when equity assumes jurisdiction of an estate, it takes the whole and not a part of the administration, and thus vests itself with exclusive jurisdiction, *Winslow v. Leland,* 128 Ill., 304, and so it has been held that a court may thus determine exclusively the equitable rights of a ward, *Commonwealth v. Roser,* 62 Pa., 436; *McCreery's Appeal,* 31 P. L. J. (O. S.), 230. The case, however, is in conflict with the general rule that an incompetent may be sued at law after inquisition and the appointment of a guardian. *Beverley's Case,* 4 Coke, 124; 1 *Tidd's Practice,* 93, note b; 1 *Arch. Practice,* 25; for the existence of a guardian does not take away such a defendant's legal capacity to be sued, *Sterling v. Schoolcraft,* 2 Barb. (N. Y.), 153; *Ibbotson v. Lord Galway,* 6 Term. R., 133; *Cock v. Bell,* 13 East, 355, though the guardian must be joined in the action and leave of court obtained, *Williams v. Cameron,* 26 Barb, (N. Y.), 172; *Niblo. v. Harrison,* 9 Bosw. (N. Y.), 668.